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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,866	08/31/2001	Ralph Scorza	0117.96	9493
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Janelle S. Graeter			EXAMINER	
USDA-ARS-OTT			GRUNBERG, ANNE MARIE	
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5601 Sunnyside Ave. Beltsville, MD 20705-5131			ART UNIT	PAPER NUMBER
20.001			1661	α
			DATE MAILED: 08/12/2003	4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Examin r			Application No.	Applicant(s)				
Examin r								
Anno Marie Grunberg 1661 - The MAILING DATE of this communication appears on the c_ver sheet with the correspondence address Period f_Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. If the period for reply specified above is less than thiry (30) days, and provide the period for reply specified above is less than thiry (30) days, and reply to be timely filled and reply to the period for reply specified above is less than thiry (30) days, and reply to the period for reply specified above is less than thiry (30) days, and reply to the period for reply specified above is less than thiry (30) days, and reply (30) days, and the considered timely. If the period for reply specified above is less than thiry (30) days, and reply (30) days will be considered timely. If the period for reply specified above is less than the reply days and reply (30) (AWXT 19) to the stating date of this communication. If the period for reply specified above is less than the reply days and reply (30) days will be considered timely. If the period for reply specified above is less than thirty (30) days, and the considered timely. If the period for reply specified above is less than the reply and the days and reply (30) days and the considered timely. A price this application is in condition for allowance except for formal matters, prosecution as to the ments is closed in accordance with the practice under Exparte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4 SQ Claim(s)	Office Action Summary							
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THE MAILING DATE OF THIS COMMUNICATION. Edeficions of the may be available under the provision of 37 CPR 1.13(6). In no ovent, however, may a reply be timely filed after SX (6) MCNTPS from the mailing date of this communication. If NO period for reply is specified to the provision of the prov								
1) Responsive to communication(s) filed on 19 May 2003. 2a) This action is FINAL. 2b This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved by disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Copies of the certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 and/or 121. Attachment(s) Interview Summary (PTO-413) Paper No(s). 20 Notice of References Cited (PTO-952) 21 Notice of Informal Patent Application (PTO-152)	THE - Exte after - If the - If NC - Failu - Any I	MAILING DATE OF THIS COMMUNICATION. nsions of time may be available under the provisions of 37 CFR 1.13 SIX (6) MONTHS from the mailing date of this communication. Properties that thirty (30) days, a reply opened for reply specified above, the maximum statutory period were to reply within the set or extended period for reply will, by statute, reply received by the Office later than three months after the mailing	36(a). In no event, however, may a reply be ting within the statutory minimum of thirty (30) day will apply and will expire SIX (6) MONTHS from a cause the application to become ABANDONE	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).				
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DETAILED ACTION

The text of those sections of Title 35 U.S. Code not included in this action can be found in a prior Office action.

Applicant states that a new declaration is being prepared..

Claim Rejections - 35 USC § 112

1. Claim 1 remains rejected under 35 U.S.C. 112, first and second paragraphs, for the reasons stated below.

Applicant's amendment dated 05/19/03 failed to set forth at least the following:

- E. Information pertaining to the gland color, pit cavity color, style, stigma, pollen, filament, and fruit skin color still needs to be set forth in the specification.
- F. information pertaining to a description of the style, stigma, anther, filament, and scent still needs to be set forth in the specification.

Response to Arguments

Applicant's arguments filed 5/19/03 have been fully considered but they are not persuasive for the following reasons:

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s/ : 4.

Applicant argues that some of the descriptions would not be distinctive characteristics of the plant since the distinctive characteristic is resistance to plum pox virus in combination with the high fruit quality.

This argument has been fully considered but is not persuasive because 37 CFR 1.163(a) states that the specification must contain as full and complete a disclosure as possible of the plant as well as the distinguishing characteristics. The information required by the Examiner is possible to describe and is required to provide a full and complete botanical description of the plant.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie Grünberg whose telephone number is (703) 305-

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some.

0805. The examiner can normally be reached on Mon-Thur, 7:00 am to 4:30 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on (703) 308-4205. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3014 for regular communications and (703) 308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

ANNE MARIE GRUNBERG PATENT EXAMINER